

the Commission and published in the FEDERAL REGISTER.

(b) Checks or money orders should be sent to the attention of the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. No checks or money orders may be accepted by personnel other than those in the Office of the Secretariat.

(c) Failure to submit the fee with an application for registration of a leverage commodity will result in the return of the application. Fees will not be returned after receipt.

(d) Any firm with an application for registration of a leverage commodity pending on the date that this fee schedule becomes effective must submit its application fee within 10 days of that date. Otherwise, the application shall be deemed withdrawn without prejudice and shall be returned to the applicant.

(Secs. 5, 5a, 8a(5) and 19 of the Commodity Exchange Act (7 U.S.C. 7, 7a, 12, 12a(5), and 23), sec. 26 of the Futures Trading Act of 1982 (7 U.S.C. 16a), Independent Offices Appropriation Act of 1952, as amended by Pub. L. 97-258, 96 Stat. 1051 (Sept. 13, 1982))

[49 FR 25835, June 25, 1984, as amended at 52 FR 22635, June 15, 1987; 60 FR 49335, Sept. 25, 1995]

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

Sec.

32.1 Scope.

32.2 Commodity option transactions; general authorization.

32.3 Trade options.

32.4 Fraud in connection with commodity option transactions.

32.5 Option transactions entered into prior to the effective date of this part.

APPENDIX A TO 17 CFR PART 32

AUTHORITY: 7 U.S.C. 1a, 2, 6c, and 12a, unless otherwise noted.

SOURCE: 77 FR 25338, Apr. 27, 2012, unless otherwise noted.

§ 32.1 Scope.

The provisions of this part shall apply to all commodity option transactions, except for commodity option transactions on a contract of sale of a commodity for future delivery conducted or executed on or subject to the rules of either a designated contract market or a foreign board of trade.

§ 32.2 Commodity option transactions; general authorization.

Subject to §§ 32.1, 32.4, and 32.5, which shall in any event apply to all commodity option transactions, it shall be unlawful for any person or group of persons to offer to enter into, enter into, confirm the execution of, maintain a position in, or otherwise conduct activity related to any transaction in interstate commerce that is a commodity option transaction, unless:

(a) Such transaction is conducted in compliance with and subject to the provisions of the Act, including any Commission rule, regulation, or order thereunder, otherwise applicable to any other swap, or

(b) Such transaction is conducted pursuant to § 32.3.

§ 32.3 Trade options.

(a) Subject to paragraphs (b), (c), and (d) of this section, the provisions of the Act, including any Commission rule, regulation, or order thereunder, otherwise applicable to any other swap shall not apply to, and any person or group of persons may offer to enter into, enter into, confirm the execution of, maintain a position in, or otherwise conduct activity related to, any transaction in interstate commerce that is a commodity option transaction, *provided that*:

(1) Such commodity option transaction must be offered by a person that has a reasonable basis to believe that the transaction is offered to an offeree as described in paragraph (a)(2) of this section. In addition, the offeror must be either:

(i) An eligible contract participant, as defined in section 1a(18) of the Act, as further jointly defined or interpreted by the Commission and the Securities and Exchange Commission or expanded by the Commission pursuant to section 1a(18)(C) of the Act; or

(ii) A producer, processor, or commercial user of, or a merchant handling the commodity that is the subject of the commodity option transaction, or the products or by-products thereof, and such offeror is offering or entering into the commodity option transaction solely for purposes related to its business as such;